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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

In re R.I., a Person Coming Under the
Juvenile Court Law.

H045672
(Santa Clara County
Super. Ct. No. JV42178)

THE PEOPLE,

Plaintiff and Respondent,

v.

R.I.,

Defendant and Appellant.

Minor R.I. appeals a dispositional order committing him to Santa Clara County's Enhanced Ranch Program. Over the course of one year, multiple juvenile wardship petitions were filed alleging minor had committed a series of crimes, including several car thefts. Minor challenges the sufficiency of the evidence to support two of those petitions, arguing that discovery of his fingerprints in two cars cannot support the juvenile court's findings that minor drove those cars with the specific intent to deprive the owners of possession. Finding no error, we will affirm.

I. JUVENILE COURT PROCEEDINGS

As minor challenges only two of the juvenile wardship petitions filed against him over the course of 2017 (petitions H and I), we limit our factual discussion to those

petitions. The following summary is based on testimony at the contested jurisdiction hearing.

One victim testified that she left her home in the morning in January 2017 and discovered her car was missing. She had left the locked car parked on the street across from her home the night before. She reported the car stolen, and learned from the police the next day that the car was at a towing yard in San Jose. The victim explained there was extensive damage to the side of the car, the interior seats were covered with “black stuff,” and someone had scratched letters onto an interior surface. She stated she did not know minor, and had not given anyone permission to drive her car. The parties stipulated that two latent fingerprint cards were created from samples found in the car; one from the driver’s seat belt latch and one from the rearview mirror. An expert in fingerprint examination, identification, and comparison testified that the sample from the rearview mirror matched minor’s right thumb print. Petition H was filed alleging one count of driving or taking a vehicle without permission as a felony. (Welf. & Inst. Code, § 602, subd. (a); Veh. Code, § 10851, subd. (a).)

Another victim testified that someone broke into his house in San Jose in May 2017 and stole his car. He stated he did not know minor, and he had not given anyone permission to drive his car. A sheriff’s deputy testified that he noticed the car eight days after it was stolen parked “kind of cockeyed” on a public street in Saratoga. He ran the license plate number and learned it had been reported stolen. The deputy processed the car after contacting the owner and asking him to come to the scene and unlock the car. The deputy obtained latent fingerprint samples from the steering wheel, the driver’s door handle, and the gear shift knob. A different fingerprint expert testified that three fingerprint samples from the steering wheel matched minor’s fingerprints. Petition I was filed alleging one count of unauthorized driving or taking a vehicle as a felony. (Welf. & Inst. Code, § 602, subd. (a); Veh. Code, § 10851, subd. (a).)

Defense counsel contended during closing argument that the fingerprint evidence in petitions H and I was insufficient to establish violations of Vehicle Code section 10851. The juvenile court concluded that the prosecution had proven petitions H and I true beyond a reasonable doubt. After minor admitted allegations of one additional petition, he was continued as a ward of the court and committed to Santa Clara County Juvenile Rehabilitation Facilities - Enhanced Ranch Program.

II. DISCUSSION

Minor contends the disposition order as to petitions H and I must be reversed for lack of sufficient evidence to support two elements of Vehicle Code section 10851, subdivision (a): that he had driven the stolen vehicles and that he did so with the specific intent to deprive the owners of possession. In reviewing a jurisdictional finding for sufficient evidence, we view the evidence in the light most favorable to the juvenile court's decision and determine whether a reasonable trier of fact could have found the petitions true beyond a reasonable doubt. (*In re Roderick P.* (1972) 7 Cal.3d 801, 808–809 (*Roderick P.*); *People v. Dominguez* (2006) 39 Cal.4th 1141, 1153.) We will not reverse a dispositional order unless it appears that under no possible hypothesis is there sufficient substantial evidence to support the jurisdictional finding. (*Roderick P.*, *supra*, at p. 809; *People v. Bolin* (1998) 18 Cal.4th 297, 331.)

A. VEH. CODE SECTION 10851, FINGERPRINT EVIDENCE, AND *PEOPLE V. FLORES*

Vehicle Code section 10851, subdivision (a) provides, in part: “Any person who drives or takes a vehicle not his or her own, without the consent of the owner thereof, and with intent either to permanently or temporarily deprive the owner thereof of his or her title to or possession of the vehicle, whether with or without intent to steal the vehicle, or any person who is a party or an accessory to or an accomplice in the driving or unauthorized taking or stealing, is guilty of a public offense.” As relevant here, to violate that section an individual must take or drive a car without the owner's permission, and must do so with the specific intent to deprive the owner of possession. (*People v. Clifton*

(1985) 171 Cal.App.3d 195, 200.) Specific intent “may be inferred from all the facts and circumstances of the particular case.” (*Ibid.*) Fingerprints provide strong evidence of a person’s identity, and under proper circumstances they are sufficient to identify a defendant as the perpetrator. (*People v. Massey* (1961) 196 Cal.App.2d 230, 234.)

Minor relies primarily on *People v. Flores* (1943) 58 Cal.App.2d 764 (*Flores*), in which a car owner left her car unlocked in Hollywood at night and it was stolen. Two women testified that later the same night a car matching the description of the stolen car pulled up beside them. Two men (later identified as Campos and Valles) got out of the car and stole the women’s purses. There was one other person driving the car, but the victims could not determine whether the driver was male or female. Flores’s fingerprint was found on the rearview mirror when the car was recovered several days later. (*Id.* at pp. 766–767.) Flores testified at trial that he had nothing to do with the car theft. He claimed he was at his house that night and Campos came to see him in a car. Flores sat in the front passenger seat of the car and talked with Campos for a period of time, and acknowledged it was possible he touched the rearview mirror while sitting in the car. (*Id.* at p. 767.) Flores’s mother testified and corroborated that Flores was home with her the night of the car theft. Valles also testified, stating that he stole the car with Campos and Campos’s girlfriend without any involvement by Flores. (*Id.* at p. 768.) Following a court trial conviction for grand theft, the appellate court reversed for insufficient evidence. The reviewing court reasoned that the fingerprint established Flores had been in the car at some point, but there was no evidence that he ever possessed the car. (*Id.* at p. 769.) The court also noted that Flores’s innocent explanation for his fingerprint being found in the car was corroborated by Valles’s testimony, and also by the purse snatching victims’ testimony that Valles and Campos were the perpetrators of that offense. (*Ibid.*)

B. EVIDENCE THAT MINOR DROVE THE CARS

1. Petition H

The evidence showed that the victim's car was stolen and out of her possession for just under two days. The only evidence connecting any specific individual to the crime was minor's right thumb print found on the car's rearview mirror. Though inconclusive, that evidence is nonetheless sufficient to support a finding by a reasonable trier of fact that minor drove the car. We note the fingerprint on the mirror was from minor's right hand, which would have been the hand closest to the mirror had minor touched it while sitting in the driver's seat.

Minor argues that the evidence here is essentially the same evidence the *Flores* court found to be insufficient. But unlike in *Flores*, here there was neither evidence providing an innocent explanation for minor's fingerprint being in the car nor evidence that anyone other than minor accessed the car while it was out of the owner's possession. Without evidence of that nature to cast doubt on the prosecution's theory, a reasonable trier of fact could conclude that minor's fingerprint was on the mirror because minor drove the car.

Minor argues that even if the fingerprint evidence places him in the car, there was no evidence to support a finding that he was an accomplice. But there was no need for the trier of fact to assume minor was merely a passenger because there was no evidence of anyone else being in the car, and minor's right thumb print on the rearview mirror supports the inference that minor was the driver rather than a passenger.

In his reply brief minor contends the rearview mirror evidence cannot support a finding that minor drove the car because "people can and do use rearview mirrors without driving" and those mirrors are "supposed to be touched only while the car is not in motion." That someone other than a driver can use a rearview mirror is irrelevant given our standard of review, under which we review the evidence (and all reasonable inferences from that evidence) in the light most favorable to the jurisdictional finding.

(*Roderick P.*, *supra*, 7 Cal.3d at pp. 808–809.) Also irrelevant is minor’s unsupported assertion that rearview mirrors are to be touched only while a car is not moving. Rather, they appear designed to allow a driver to make real-time adjustments to ensure an accurate view of the surroundings. But even assuming they are not touched while cars are in motion, a reasonable trier of fact could easily conclude that minor adjusted the mirror either before driving the car or while stopped at a stoplight.

2. Petition I

The evidence supporting petition I is stronger than that supporting petition H because minor’s fingerprints were found on the steering wheel, and multiple fingerprints were found suggesting sustained use of the car. The expert did not identify any other person’s fingerprints from the samples left in the car. And the car was locked when it was found on the street. The foregoing provides substantial evidence for a reasonable trier of fact to conclude that minor drove the car.

Minor argues the evidence was insufficient because the car was missing for eight days, it is unclear when minor touched the steering wheel, and the car was found on a street “accessible to the public.” But a reasonable trier of fact could infer from minor’s fingerprints on the steering wheel that he drove the car. As for the car being “accessible to the public,” the car was locked when it was found and there was no evidence indicating that it was ever left unlocked. The decision minor relies on regarding fingerprints discovered in a location accessible to the public—*Birt v. Superior Court* (1973) 34 Cal.App.3d 934, 937–938—is distinguishable because there a fingerprint was found on a cigarette lighter in a rental van that had been accessed by multiple people. The lighter was also attenuated from the charged crime of residential burglary because it was not found in the residence and there was no evidence linking it to the residence.

Minor contends that though a steering wheel is generally used solely by a driver, “it does not follow that anyone who touches a steering wheel did so while driving.” But when the fingerprint evidence here is considered in the context of all available evidence

and viewed in the light most favorable to the jurisdictional finding, a reasonable trier of fact could have concluded beyond a reasonable doubt that minor drove the car.

C. EVIDENCE OF MINOR’S SPECIFIC INTENT

The specific intent to deprive an owner of possession temporarily or permanently “ ‘may be inferred from all the facts and circumstances of the particular case.’ ” (*People v. Green* (1995) 34 Cal.App.4th 165, 181 (*Green*)). Minor argues that even assuming he drove the cars, there was insufficient evidence of his intent to deprive the owners of possession. He contends there is no evidence he knew the cars were stolen, and no evidence to corroborate his intent (such as tampering with the ignition, contradictory statements by minor, or behavior indicating consciousness of guilt). Significantly, although actual knowledge is a factor that would support a finding of specific intent (*Id.* at p. 180), knowledge that a car is stolen is not an element of a Vehicle Code section 10851, subdivision (a) violation. (*Green*, at p. 180.) When reviewing for sufficient evidence, we will affirm if the facts and circumstances of a given case reasonably justify the trier of fact’s decision, even if those circumstances might also reasonably be reconciled with innocence. (*Ibid.*)

1. Petition H

The fingerprint evidence on the rearview mirror supports the finding that minor drove the car. The car’s owner testified that she did not give minor permission to drive the car. There was no evidence suggesting anyone other than minor drove the car. And minor’s failure to return the car to the owner or otherwise seek to have the car returned (such as by informing the police of the car’s location) provides substantial evidence to support the finding that minor drove the car with the specific intent to deprive the owner of possession. Minor notes there was no evidence presented about where he abandoned the car, and contends that the evidentiary gap precludes the prosecution’s argument that it was abandoned in a way that demonstrated an intent to deprive the owner of possession. But the evidence showed that the owner had to retrieve her car from a “towing yard,”

meaning that no effort was made to reunite the owner with her car. A reasonable trier of fact could infer that if minor parked or abandoned the car in a manner that caused it to be towed, then the minor intended to deprive the owner of possession, either permanently or until it could be retrieved from the towing yard. The foregoing facts and circumstances reasonably justify the juvenile court's decision.

2. Petition I

The evidence supporting the intent element in petition I is stronger than in petition H. Minor's fingerprints were found on the steering wheel, strongly suggesting he drove the car. The owner testified that he never gave minor permission to drive the car. No evidence indicated anyone other than minor accessed the car while it was stolen. No evidence showed minor tried to return the car to the owner. And the car was missing for eight days. Minor contends that the length of time the car was missing is immaterial because it "could have been abandoned shortly before the officer happened to notice it, or it could have been left there eight days before." But either scenario supports a finding that minor drove the car and abandoned it in a different city. A reasonable trier of fact could conclude that abandoning the car in a different city supports an inference that when minor drove the car he did so with the specific intent to at least temporarily deprive the owner of possession.

3. Evidence Code Section 1101

Minor argues that the prosecutor used evidence from each petition as improper character evidence, either as propensity evidence or as evidence to show intent without the requisite similarity between the two offenses. During closing argument, the prosecutor argued that the "defense is asking the court to look at the facts and circumstances of all these case[s] in a vacuum, essentially ignoring the facts [*sic*] that [minor's] fingerprints were in three separate locations where he should not have had access." Minor's counsel objected that the argument was improper because the prosecution was seeking to use the petitions as propensity evidence. The juvenile court

responded: “Well, I’ll just keep in mind that argument is not evidence and that if I find that the prosecution is doing anything unethical I’ll stop the prosecution.” The juvenile court never indicated that it was relying on evidence for any Evidence Code section 1101 purpose. And because we have determined that evidence associated with each petition considered on its own supported each jurisdictional finding, we need not reach the parties’ arguments about whether the evidence was cross-admissible for Evidence Code section 1101, subdivision (b) purposes.

III. DISPOSITION

The dispositional order is affirmed.

Grover, J.

WE CONCUR:

Greenwood, P. J.

Danner, J.

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